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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,110	07/15/2003	Shigeru Hosoe	02860.0747	5811

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EXAMINER

DEUBLE, MARK A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,110

Applicant(s)

HOSOE ET AL.

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 17-31 is/are pending in the application.
- 4a) Of the above claim(s) 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-14, 17-29 and 31 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/6/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of claims 1-4, 6-15, 17-29, and 31 in the reply filed on June 6, 2005 is acknowledged. The traversal is on the ground(s) that the examiner has not made a *prima facie* case of a proper restriction because it is not clear what element has the mutually-exclusive, varying attribute necessary to define each of the alleged species. This is not found persuasive with respect to the two identified species in Category B because glass loads and plastic loads are clearly mutually exclusive. If the applicant wished to traverse on the ground that the species are not patentably distinct, the applicant should have admitted (or submitted evidence showing) that the species are obvious variants of each other. In the absence of such an admission or evidence) the claims will be treated as patentably distinct and the election of species requirement will be maintained. On the other hand, if the applicant makes such an admission (or submits such evidence), the admission (or evidence) may be used in a rejection under 35 U.S.C. 103(a) of the non-elected invention. Furthermore, it should be noted that a serious burden need only be shown when a restriction requirement, rather than an election of species requirement, has been made. Finally, With regard to the species in Category A, the examiner, in his discretion, has decided to withdraw this requirement so that claim 5 will be treated on its merits in this office action.

2. Claim 30 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 6, 2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 10-14, 17-29 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujimoto et al. (U.S. Patent No. 6,370,915).

Fujimoto et al. shows in Figures 18 and 20 a load conveying device comprising a plurality of glass load supporting devices 15, each having a through hole passing therethrough in a gravity direction arranged so that each hole aligns in series (or parallel depending on the direction from which the load is supplied to the device), and a fluid supplying device (not shown, but see col. 11, ln. 23-45) that supplies a fluid such as nitrogen into the through hole in varying amounts depending on the weight of the load supplied to the device. This allows a load dropped into the through hole from a top of the through hole to be supported under a floating condition by a force of the fluid in the through hole until the force of the fluid is changed and a shutter 14 is opened to allow the load to drop from a lower end of the through hole to an outside. The top section of the through hole has a tapered wall section whose inside diameter increases toward a top open end so that the tapered wall section forms an angle between 0° and 90° with the lower portion of the through hole. Furthermore, because it is preferable to have the corners of the funnel shape rounded to guide material smoothly (col. 6, ln. 15-20), the rounded upper edge of the device 15 would form a tapered end section having a taper angle greater than that of the

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tapered well section below it. As can be seen in Fig. 20, the height of the tapered wall section is slightly larger than the height of the load so that it is between 0.2 times and 2.0 times the height of the load. A heating device 13 adjacent the device 15 raises the temperature of the load and the fluid around it to much higher than room temperature so that the load is conveyed and heated in a fused condition close to its glass transition temperature. The load as illustrated appears to be spherical with no deviation and if the load is a glass gob with an irregular shape, such surface defects may be eliminated during the heating and floating operation of the device so that a deviation from spherical of the load in either case is half of less than the average radius of the load. Thus, Fujimoto et al. shows all the structure required by claims 1-5, 10-14, and 17-22, and which operates with all the steps required by claims 23-29 and 31.

Allowable Subject Matter

5. Claims 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The art cited but not discussed above all show load conveyance devices for floating loads in a fashion similar to that of the present invention.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md


GENE O. CRAWFORD
PRIMARY EXAMINER